

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

SPARTAN BUSINESS SOLUTIONS LLC
D/B/A SPARTAN CAPITAL,

Case No. 6:23-cv-06728-FPG

Plaintiffs,

-against-

MARQUIS CATTLE COMPANY INC.
D/B/A MARQUIS CATTLE COMPANY;
MONTANA MOUNTAIN BISON, INC.;
MCC TRUCKING LLC;
M HANGING 6 RANCH LLC D/B/ A PUMP'T;
MARQUIS CATTLE INC. and
CORY SHANNON MARQUIS,

Defendants.

DECLARATION OF STEVEN W. WELLS

1. I am over twenty-one years of age, competent to testify in a legal proceeding, and give this declaration of my own personal knowledge.

2. I am a partner with the law firm of Wells Law P.C., counsel in this action for Plaintiff Spartan Business Solutions LLC d/b/a Spartan Business Capital (“Plaintiff”). I offer this Declaration in support of Plaintiff’s motion to remand against Defendants Marquis Cattle Company Inc. d/b/a Marquis Cattle Company, Montana Mountain Bison, Inc., MCC Trucking LLC, M Hanging 6 Ranch LLC d/b/a Pump’t, Marquis Cattle Inc., and Cory Shannon Marquis (together, “Defendants”).

3. A true and correct copy of Defendants’ First Notice of Removal in the action entitled *Spartan Business Solutions LLC v. Marquis Cattle Company Inc.*, United States District Court of the Western District of New York, Case No. 6:23-cv-06258 (the “First Action”) is attached hereto as **Exhibit 1**. Defendants filed their First Notice of Removal more than thirty (30)

days after they were served with the Summons and Complaint in the State Court Action (as defined below). Plaintiff did not object to this untimely removal because Defendants' counsel represented that it was working on a settlement and could not work on both removal and settlement at the same time.

4. A true and correct copy of Plaintiff's June 9, 2023, Memorandum of Law in Support of its Motion to Remand or, in the Alternative, to Compel Arbitration filed in the First Action is attached hereto as **Exhibit 2**.

5. A true and correct copy of Defendants' Memorandum of Law in Opposition to Motion to Remand or, in the Alternative, to Compel Arbitration filed in the First Action is attached hereto as **Exhibit 3**.

6. A true and correct copy of the Court's November 6, 2023, Decision and Order in the First Action is attached hereto as **Exhibit 4**.

7. A true and correct copy of the CM/ECF notification email reflecting the Court's November 21, 2023, text order in the First Action is attached hereto as **Exhibit 5**.

8. A true and correct copy of Defendants' December 12, 2023, Notice of Motion to Change Venue in the action entitled *Spartan Business Solutions LLC v. Marquis Cattle Company Inc.*, Supreme Court of the State of New York, Monroe County, Index. No. E2023003269 (the "State Court Action") is attached hereto as **Exhibit 6**.

9. A true and correct copy of my December 12 and 18, 2023, emails to Defendants' counsel is attached hereto as **Exhibit 7**.

10. A true and correct copy of Defendants' December 18, 2023, Notice of Motion to Extend the Time to Answer is attached hereto as **Exhibit 8**.

11. In their December 21, 2023, Second Notice of Removal, Defendants claimed that Plaintiff engaged in “misrepresentation[] or misconduct” by stating in the First Action that it intended to move to compel arbitration if the case were remanded to State Court. At the time, this statement was accurate. Subsequently, however, I participated in three arbitrations where the fees (attorney’s fees, administration fees, and arbitrator fees) were significantly greater than the fees would have been in state court litigation. Moreover, there was little, if any, gain in efficiency; the arbitrations involved the same elements (discovery, motion practice, etc.) as state court. I concluded, therefore, that it would not be in Plaintiff’s best interest to arbitrate; rather, it would be cheaper and quicker to litigate in state court. That is why Plaintiff elected to litigate in state court rather than moving to compel arbitration.

12. I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 19, 2024

/s/ Steven W. Wells
Steven W. Wells